

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRYAN KOPESKY,

Plaintiff,

v.

Case No. 21-C-59

AETNA LIFE INSURANCE COMPANY,

Defendant.

ORDER

Plaintiff Bryan Kopesky commenced this action alleging Defendant Aetna Life Insurance Company violated the Employee Retirement Income Security Act of 1974 (ERISA). This matter comes before the Court on Defendant's unopposed motion requesting that both parties be excused from submitting proposed findings of fact with the parties' briefs for judgment on the ERISA administrative record.

The parties agree that the plan at issue provides for judicial review of an administrative record under the arbitrary and capricious standard of review. Judicial review is not summary judgment. Judicial review in ERISA cases is based on the record, not either party's characterization of the record. For this reason, proposed findings of fact are neither appropriate nor necessary. Plaintiff should simply file his brief setting forth the errors he believes warrant reversal or remand and include appropriate citations to the administrative record and the law that support his argument. If there are facts outside the record that Plaintiff believes are relevant to the Court's determination, he may submit appropriate affidavits, keeping in mind that the Court's review, with few exceptions, is confined to the administrative record. Accordingly, Defendant's

motion requesting that both parties be excused from submitting proposed findings of fact (Dkt. No. 32) is **DENIED as moot**.

SO ORDERED at Green Bay, Wisconsin this 4th day of January, 2022.

s/ William C. Griesbach
William C. Griesbach
United States District Judge